

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

TONY McLANE DILLARD,	:	
	:	
Petitioner,	:	
	:	
v.	:	
	:	
WARDEN WALTER BERRY,	:	
	:	
Respondent.	:	
	:	
	:	

No. 3:21-cv-00037-CDL-CHW

DISMISSAL ORDER

Pro se Petitioner Tony McLane Dillard filed a petition for writ of habeas corpus in the Northern District of Georgia. ECF No. 1. The action was transferred to this Court. ECF Nos. 4 and 5. Petitioner also filed a motion to proceed *in forma pauperis*. ECF No. 2. On May 20, 2021, Petitioner's motion to proceed *in forma pauperis* was denied and he was ordered to pay the filing fee. ECF No. 7. Petitioner was given fourteen (14) days to respond. *Id.*

On June 8, 2021, Petitioner requested an extension of time to pay the fee. ECF No. 8. Petitioner's request was granted and he was given an additional fourteen days to pay the filing fee. ECF No. 9. Petitioner failed to respond.

Therefore, on July 15, 2021, the Court notified Petitioner that it had not received a response and ordered him to show cause why his action should not be dismissed for failure to comply and diligently prosecute his claims. ECF No. 11.

Petitioner responded on August 5, 2021 that he would follow up with the prison

business office to be sure the fee was paid. ECF No. 12. The Court heard nothing more from the Petitioner and the fee was not paid. Therefore, on September 24, 2021, the Court issued a second order to show cause why this action should not be dismissed for failure to prosecute. ECF No. 13. The Court unambiguously informed Petitioner that his action would be dismissed if he failed to respond. *Id.* Petitioner was given fourteen (14) days to answer. Petitioner has failed to respond.

Because Petitioner has failed to comply with the Court's orders or otherwise prosecute his case, his complaint is **DISMISSED WITHOUT PREJUDICE**. See Fed. R. Civ. P. 41(b); *Brown v. Tallahassee Police Dep't*, 205 F. App'x 802, 802 (11th Cir. 2006) ("The court may dismiss an action *sua sponte* under Rule 41(b) for failure to prosecute or failure to obey a court order.") (citing Fed. R. Civ. P. 41(b) and *Lopez v. Aransas Cty. Indep. Sch. Dist.*, 570 F.2d 541, 544 (5th Cir. 1978)).

SO ORDERED, this 19th day of **October, 2021**.

S/Clay D. Land
CLAY D. LAND, JUDGE
UNITED STATES DISTRICT COURT